

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HAROLD A. McMASTER, NORMAN C. NITSCHKE,
DEXTER H. McMASTER AND RONALD A. McMASTER

Appeal 2007-0216
Application 08/655,853
Technology Center 1700

Oral Argument: None
Decided: December 5, 2006

MAILED

DEC 5 - 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Before: McKELVEY, Senior Administrative Patent Judge, and DELMENDO and MacDONALD, Administrative Patent Judges.

McKELVEY, Senior Administrative Patent Judge.

DECISION ON APPEAL UNDER 35 U.S.C. § 134

A. Discussion

30 The appeal is from a decision of the Primary Examiner rejecting
31 claims in an application seeking to reissue U.S. Patent 4,883,527, issued
32 28 November 1989.

The real party in interest is Glasstech International L.P.

34 The patent sought to be reissued expired on 28 November 2006.

1 Because the patent sought to be reissued has expired, there is no
2 longer a patent to be reissued. Accordingly, the issues raised by the appeal
3 are moot. *In re Morgan*, 990 F.2d 1230, 26 USPQ2d 1392 (1993). *See also*
4 *In re Ball Corp.*, 925 F.2d 1480, 18 USPQ2d 1491, 1492 n.1 (Fed. Cir.
5 1991) (non-precedential: court did not review amended claims in a
6 reexamination where patent had expired—since claims would not be issued
7 there was no occasion for court to review patentability of those claims).

8

B. Order

10 Upon consideration of the appeal, and for the reasons given, it is
11 ORDERED that the appeal is dismissed.

12 **DISMISSED**

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/ss/ Fred E. McKelvey)
FRED E. MCKELVEY)
Senior Administrative Patent Judge)
)
/ss/ Romulo H. Delmendo)
ROMULO H. DELMENDO)
Administrative Patent Judge)
)
/ss/ Allen R. MacDonald)
ALLEN R. MacDONALD)
Administrative Patent Judge)
)
) BOARD OF
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